

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs April 18, 2007

STATE OF TENNESSEE v. JIMMIE C. SCOTT

Direct Appeal from the Circuit Court for Dickson County
No. CR7551 George C. Sexton, Judge

No. M2006-01698-CCA-R3-CD - Filed May 25, 2007

The defendant, Jimmie C. Scott, appeals, contending that the trial court erred in denying his motion to suppress evidence. After review, we conclude the record on appeal is inadequate for proper appellate review because it fails to include the transcript of the suppression hearing which also includes the trial court's reasoning for denial of the defendant's motion to suppress. We affirm the judgment from the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed

JOHN EVERETT WILLIAMS, J., delivered the opinion of the court, in which DAVID H. WELLES and ROBERT W. WEDEMEYER, JJ., joined.

Michael J. Flanagan, Nashville, Tennessee, for the appellant, Jimmie C. Scott.

Robert E. Cooper, Jr., Attorney General and Reporter; Sophia S. Lee, Assistant Attorney General; and Joseph D. Baugh, Special Prosecutor, for the appellee, State of Tennessee.

OPINION

The defendant waived his right to a jury trial and was found guilty by the trial court of Driving Under the Influence (D.U.I.). As a result, he was sentenced to eleven months, twenty-nine days; fined \$350.00; ordered to attend either a D.U.I. school or an alcohol rehabilitation program; and lost his driving privileges for one year. The trial court had a pretrial hearing on the defendant's motion to suppress evidence. The trial court entered an order overruling the defendant's motion, which read in part: "... for the reasons set forth at the hearing of this motion." In this appeal, the defendant alludes to a stipulation between the Defense and the State that the testimony at trial was the same at the suppression hearing. However, we find no order in the record referencing such a stipulation. In any event, we do not dispute defense counsel's assertion that the trial testimony was similar. It is the trial court's reasoning and any credibility determinations made during the suppression hearing that we deem critical for our review.

Pursuant to Tennessee Rule of Appellate Procedure 24, we must presume the trial court's rulings were correct when the defendant fails to include an adequate record for review. It is the duty of the accused to provide a record which conveys a fair, accurate, and complete account of what transpired with regard to the issues which form the basis of the appeal. Tenn. R. App. P. 24(b); see State v. Taylor, 992 S.W.2d 941, 944 (Tenn. 1999).

Conclusion

We presume the trial court's overruling the defendant's motion to suppress was correct and affirm the judgment from the trial court.

JOHN EVERETT WILLIAMS, JUDGE